

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

UNITED STATES OF AMERICA)

v.)

MARK RYAN HAUSER,)

Defendant.)

Docket No. 5:22-cr-00252-XR-1

San Antonio, Texas

May 27, 2022

TRANSCRIPT OF ARRAIGNMENT AND DETENTION HEARING
BEFORE THE HONORABLE ELIZABETH S. CHESTNEY
UNITED STATES MAGISTRATE JUDGE

A P P E A R A N C E S:

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1 (11:20 a.m.)

2 THE COURT: You may be seated.

3 THE CLERK: United States of America v. Mark Ryan
4 Hauser, SA:22-CR-252.

5 THE COURT: Good morning. I'll have appearances,
6 please.

7 MR. STEPHENSON: Good afternoon, Your Honor. Kelly
8 Stephenson on behalf of the United States.

9 MS. ROTH: Good morning, Your Honor. Molly Roth for
10 Mark Hauser.

11 THE COURT: Good morning.

12 And I know there was a little bit of confusion. I think at
13 the initial appearance Mr. Hauser indicated that he was being
14 represented by a different attorney, who was representing him
15 on state court cases, and we didn't connect that there was
16 another federal case pending here, and you're representing him
17 on that. So we got that all squared away. I apologize for the
18 confusion to the agent, too, coming back and forth.

19 Ms. Roth, are we proceeding today on both the arraignment
20 and detention hearing?

21 MS. ROTH: We are, Your Honor. Now, I don't represent
22 him on his other federal case.

23 THE COURT: Oh, you don't.

24 MS. ROTH: I don't. But we are happy to represent him
25 on this case. And the attorney on the other case advised that

1 he will not be representing Mr. Hauser on this case.

2 THE COURT: Okay. And so for cleanliness of the
3 record, we should probably just go ahead and -- did you have
4 him do a financial before this?

5 MS. ROTH: I believe that Ms. Sandoval found that
6 there was a financial --

7 THE COURT: There was a financial in the other case?

8 MS. ROTH: Yes.

9 THE COURT: Okay. All right. And just, if you could
10 confirm that. And if there's not a complete one with them,
11 then file it at some point after the hearing today.

12 MS. ROTH: Yes, Your Honor.

13 THE COURT: Okay. In terms of the arraignment,
14 Mr. Stephenson, I'll start by just reminding the government of
15 its disclosure obligations under *Brady v. Maryland* and the
16 consequences of what can happen if you violate any of those
17 disclosure obligations. Those can include, but aren't
18 necessarily limited to, the delay of trial or other
19 proceedings, the exclusion of evidence, giving adverse jury
20 instructions, the charges being dismissed, among other things.
21 Thank you.

22 Mr. Hauser, I'm going to go ahead and ask my deputy to put
23 you under oath for this arraignment.

24 THE CLERK: Please remain seated and raise your right
25 hand, please.

1 *(The oath was administered)*

2 THE CLERK: Thank you.

3 THE COURT: Ms. Roth, do you have any doubt as to your
4 client's competence today?

5 MS. ROTH: No, Your Honor.

6 THE COURT: And, Mr. Hauser, is there anything
7 interfering with your ability to understand me today?

8 THE DEFENDANT: No, ma'am, Your Honor.

9 THE COURT: All right. And have you received a copy
10 of the indictment filed in this case? It's a single count
11 indictment.

12 THE DEFENDANT: I have, Your Honor.

13 THE COURT: Okay. And, Ms. Roth, does your client
14 waive my reading that to him again?

15 MS. ROTH: He does.

16 THE COURT: All right. And would you like to enter a
17 plea on behalf of your client?

18 MS. ROTH: Not guilty.

19 THE COURT: All right. A plea of not guilty will be
20 entered, and the case will be forwarded to the district court
21 for further proceedings.

22 I'll proceed now to the detention hearing portion of this
23 proceeding. I will, of course, take judicial notice of the
24 indictment and that a grand jury found probable cause on the
25 charged offense. And I have the pretrial services report as

Justin Granberry - Direct

1 well.

2 And then is the government going to be calling any
3 witnesses on the matter of detention?

4 MR. STEPHENSON: Yes, Your Honor. Government will
5 call Agent Justin Granberry.

6 THE COURT: Okay. You can come forward.

7 THE CLERK: Please raise your right hand, please.

8 *(The oath was administered)*

9 MR. STEPHENSON: Thank you.

10 JUSTIN GRANBERRY, GOVERNMENT'S WITNESS, SWORN

11 DIRECT EXAMINATION

12 BY MR. STEPHENSON:

13 Q. Agent Granberry, can you please provide your name for the
14 record.

15 A. My name's Justin Granberry.

16 Q. And how are you employed?

17 A. I'm employed with Homeland Security, and I'm a task force
18 officer assigned to the FBI in San Antonio.

19 Q. Okay. So I should be calling you TFO Granberry?

20 A. That would work.

21 Q. Okay. So, Mr. Granberry, can you tell me how long have you
22 been a TFO?

23 A. Three years approximately.

24 Q. And what do you -- what is your -- what do you focus on?

25 A. We focus on domestic terrorism.

Justin Granberry - Direct

1 Q. And how do you know -- or I should say, do you know the
2 defendant, Mr. Hauser?

3 A. Yes. I am aware of him.

4 Q. And how did you become aware of him?

5 A. Through an investigation that was initiated earlier last
6 year, in 2021.

7 Q. And did that investigation result in an indictment?

8 A. It did.

9 Q. And do you know the charges of that indictment?

10 A. I believe it was felon in possession of a firearm.

11 Q. And can you summarize briefly how that investigation began?

12 A. Yeah. We received -- the FBI received information through
13 sources that Mr. Hauser had made some violent comments or posed
14 a threat. I'm not aware of the nature of those. But the
15 investigation was opened. Through that investigation, it was
16 determined that he was a prohibited person, and it was also
17 determined that he was in possession of firearms.

18 Q. Do you know specifically, was he a part of or affiliated
19 with any particular groups?

20 A. Yeah. We believed him to be a part of the Boogaloo group.

21 Q. And can you describe for me the Boogaloo group, Boogaloo
22 Bois?

23 A. It's kind of -- it's an ideology, a movement. It's
24 antigovernment, antipolice, antigun control, kind of an
25 anarchist extremist group.

Justin Granberry - Direct

1 Q. And do you recall -- if you -- if you recall, what
2 suggested that the defendant was part of that group?

3 A. There's certain terminologies. There's certain attire that
4 is worn. I don't know the specifics. I haven't reviewed the
5 case file, and I didn't open the case originally, but it was
6 determined that he was part of this ideology.

7 Q. And was -- can you describe what you -- what you know about
8 any firearms he possessed?

9 A. Through the investigation, it was found that he was in
10 possession of an assault rifle. He was trying to acquire parts
11 to assemble an assault rifle. We knew he had a pistol, and he
12 was 3D printing parts to build an assault rifle as well.

13 Q. And you were saying an assault rifle. Can you -- do you --
14 can you describe that to me?

15 A. Like an AR-15.

16 Q. Okay.

17 A. A platform weapon.

18 Q. And is that a semiautomatic rifle?

19 A. They are, yes.

20 Q. Okay. And is that -- is that type of rifle common with
21 people in the Boogaloo movement?

22 A. It is, yes.

23 Q. Okay. And you said he was printing parts. Can you
24 describe any of those parts for me?

25 A. Some of the parts that we found, that Mr. Hauser was

Justin Granberry - Direct

1 producing, was a suppressor to silence the report of the
2 weapon. He was printing the lower receiver, which is typically
3 the part that is tracked and controlled by the ATF. He was
4 printing parts of -- what's called a drop-in auto sear. If
5 it's dropped into a functioning lower receiver, it can allow a
6 semiautomatic weapon to operate fully automatic.

7 Q. Let me ask you to just elaborate on a couple of those
8 concepts.

9 A. Certainly.

10 Q. You said "silence the report." What does that mean?

11 A. So the sound --

12 MS. ROTH: May I just interrupt for one moment? We
13 did -- there was a hearing at the 922(g) bond hearing, and this
14 relates to that. So there was a bond set. And, in fact,
15 Mr. Hauser was in compliance with that bond.

16 So I don't -- I don't -- I mean, I'm not opposed to
17 learning about the firearms, but I just -- it's irrelevant to
18 today's decision.

19 MR. STEPHENSON: Your Honor --

20 THE COURT: There was -- originally, there was a bond
21 hearing, and Judge Bemporad ordered him detained and then, I
22 think upon reconsideration, let him out on some very
23 restrictive conditions.

24 Since I didn't hear all that evidence, I'll hear a little
25 bit of context, because I know this is -- this case involves

Justin Granberry - Direct

1 new information. And I assume this links up at some point?

2 MR. STEPHENSON: It does, Your Honor. And we don't
3 have the transcript of that prior hearing available. So I feel
4 like the totality of the circumstances are relevant to the
5 detention determination.

6 THE COURT: So you can proceed. Thank you.

7 MR. STEPHENSON: Thank you.

8 BY MR. STEPHENSON:

9 Q. I was asking you about, what do you mean by something that
10 silences or suppresses the report of a firearm?

11 A. So the noise that is typically associated with firing a
12 weapon, it would reduce that. Commonly known as, like, a
13 silencer or suppressor, that's what he was creating --

14 Q. Okay.

15 A. -- or printing.

16 Q. And you said that he was also printing lowers. Does that
17 relate -- and you said that that was what's tracked. Does that
18 relate to the concept of a ghost gun?

19 A. I believe so. I can't speak with a lot of experience in
20 ghost guns. But yes, he was creating the lower portion of an
21 AR or assault rifle-style weapon that wouldn't come with a
22 serial number.

23 Q. And you also mentioned an auto sear. Describe to me what
24 the purpose of an auto sear is.

25 A. It would be to allow a semiautomatic weapon to become fully

Justin Granberry - Direct

1 automatic.

2 Q. And do you know if he ever attempted to use one?

3 A. We are aware that he did try to use it at one time.

4 Q. Okay. I'd like you now to tell me, were you present when
5 Mr. Hauser was arrested for that offense?

6 A. Yes, I was.

7 Q. And did you take any evidence into possession at that time?

8 A. At that time we took some belongings. He also had a pistol
9 with him and a cellphone.

10 Q. So he had a firearm in his possession when he was arrested?

11 A. It wasn't on him. It was with him. He was off site. It
12 was in a bag that he had taken to work.

13 Q. A bag he had carried with him to work?

14 A. Yes.

15 Q. Okay. And did you take any electronic devices?

16 A. We took a Samsung cellphone.

17 Q. Did you subsequently review that cellphone?

18 A. We did.

19 Q. And did you find any evidence that he possessed firearms on
20 that cellphone?

21 A. Yes, we did.

22 Q. Did you subsequently find any evidence that he possessed
23 child pornography?

24 A. Yes, we did.

25 Q. And where was that?

Justin Granberry - Direct

1 A. It was located within the photos of -- and videos of the
2 cellphone.

3 Q. And was that -- approximately how long after you made the
4 arrest did you find the child pornography?

5 A. It was a couple months later that we started the review of
6 that. And that's when we found them.

7 Q. Did you personally review those images?

8 A. I did. Yes.

9 MR. STEPHENSON: Okay. Your Honor, I'm not going to
10 go into details on those. I believe that those -- described in
11 the indictment.

12 THE COURT: I'm looking at them now.

13 BY MR. STEPHENSON:

14 Q. After personally viewing those, did you have any doubt that
15 they were child pornography?

16 A. I believed them to be child pornography, yes.

17 Q. Did you seek any other expertise or guidance in evaluating
18 those images?

19 A. Yes, I did. Those images, among others, were referred to
20 the FBI's Violent Crimes Against Children Unit. After their
21 review, the videos and the photos that led to the indictment
22 were flagged by them to be consistent with child pornography.

23 Q. And are those experts in that field?

24 A. That's their main job, yes.

25 Q. Okay. Did they express any reservations to you about

Justin Granberry - Direct

1 whether or not those images were child pornography?

2 A. No.

3 Q. Okay. Do you happen to know if Mr. Hauser has any children
4 in the home where he's currently located?

5 A. It's my understanding that he has a young child, a son, I
6 think three or four years old. And I believe there may be some
7 older stepchildren --

8 Q. And do you --

9 A. -- that are minors.

10 Q. Do you know if he has any child supervision duties?

11 A. From what I know, I believe that he does take care of his
12 son during the day.

13 Q. Okay.

14 A. The young son.

15 Q. And in -- let me -- let me go back to the -- to the guns
16 that we talked about earlier. Do you know how, if at all,
17 those were secured in the home?

18 A. I don't know that they were secured at all. I wasn't at
19 the search warrant that seized those weapons at the home. So
20 I'm not sure how they were stored.

21 Q. Okay. And we're turning back to the child pornography
22 found on his phone. In your opinion is somebody who has child
23 pornography on their phone suitable for supervision of
24 children?

25 A. In my opinion, no.

Justin Granberry - Cross

1 MR. STEPHENSON: Your Honor, I'll pass the witness.

2 THE COURT: Okay. Thank you.

3 CROSS-EXAMINATION

4 BY MS. ROTH:

5 Q. You saw no pornographic images of that child on the phone,
6 correct?

7 A. No, ma'am, not of that child.

8 Q. And you're aware that Mr. Hauser, while he was on bond,
9 just right until this arrest, had no bond violations, correct?

10 A. Correct.

11 Q. The cellphone that you've been talking about was seized on
12 the same day as the firearms, correct?

13 A. Yes, it was.

14 Q. So it's all part of that same arrest?

15 A. Yes.

16 Q. You were present or not present at the time of the arrest?

17 A. I was present at the time of the arrest, yes.

18 Q. Regarding the firearms, the suppressor that you talked
19 about was not functional, correct?

20 A. It wasn't determined if it was functional or not. It was
21 just seized.

22 Q. So no one examined it, you mean, or --

23 A. I don't have that information. It was sent to an FBI lab
24 for analysis, but I don't have their report.

25 Q. I see. That was last year?

Justin Granberry - Cross

1 A. The report came out, I believe, last month.

2 Q. Oh, so the report came back, and the report said,
3 undetermined?

4 A. I don't know what the report says.

5 Q. So you don't know for sure that -- you don't have
6 independent confirmation that the suppressor was nonfunctional?
7 Is that what you're saying?

8 A. Correct. I don't know if it worked or not.

9 Q. Okay. And then you talked about -- on direct about an
10 allegation that Mr. Hauser tried to use the sear. Any use of
11 the sear was unsuccessful, correct?

12 A. Correct. When Mr. Hauser did it.

13 Q. You also talked about assault weapons or assault rifles
14 being typical of the Boogaloo Bois group. But, actually,
15 assault rifles are one of the most purchased firearms by any
16 group or any person, that's not affiliated with a group,
17 currently in the United States, correct?

18 A. I'm not aware of that.

19 Q. Have you ever been a part of seizing an assault rifle?

20 A. Yes. There's assault rifles everywhere, and they may be
21 associated with other groups. But specifically the Boogaloo
22 group, they are also typical.

23 Q. "Also typical"?

24 A. Of the Boogaloo group. So they may be typical for other
25 groups as well, but for the --

Justin Granberry - Redirect

1 Q. And individuals who aren't part of the group?

2 A. Correct.

3 Q. What percentage of the sales of firearms in the
4 United States are currently assault rifles?

5 A. I don't have that information.

6 Q. Have you been to a gun store lately?

7 A. I have not.

8 MS. ROTH: Thank you, Your Honor.

9 MR. STEPHENSON: Your Honor, I'll be very brief.

10 REDIRECT EXAMINATION

11 BY MR. STEPHENSON:

12 Q. Do you happen to remember any of the defendant's online
13 handles that he used?

14 A. I know one was Kangaroonicorn.

15 Q. Is that indicative of a Boogaloo Boi-type handle?

16 A. Yes. Usually kind of off-the-wall stuff.

17 THE COURT: What was -- what was it?

18 THE WITNESS: Kangaroonicorn.

19 BY MR. STEPHENSON:

20 Q. And do you -- let me ask. You mentioned earlier that you
21 were not the original case agent on this. When did you take
22 over?

23 A. I took over around October/November timeframe.

24 Q. Okay. And --

25 A. Of last year. I'm sorry. 2021.

Justin Granberry - Redirect

1 Q. And in preparation for this hearing today, were you able to
2 review your notes and files?

3 A. No, I was not.

4 Q. About how much time did you have to prepare?

5 A. Ten minutes.

6 MR. STEPHENSON: Okay. Thank you, Your Honor.

7 Nothing more for this witness.

8 THE COURT: All right. He can -- you can --

9 THE WITNESS: Okay.

10 THE COURT: Ms. Roth, you have something else to
11 follow up on?

12 MS. ROTH: I have a witness, Your Honor.

13 THE COURT: Okay.

14 MR. STEPHENSON: Your Honor, may I -- I think -- I'd
15 like to be able to argue as to the PSR at some point. Do we
16 need to bring that in, or can we proffer from it?

17 THE COURT: Oh, I take judicial notice of the pretrial
18 services report.

19 Do you have any other evidence before I turn it over?

20 MR. STEPHENSON: No, Your Honor. Thank you.

21 THE COURT: All right. Go ahead.

22 MS. ROTH: Thank you. I call Deena Hauser Lancaster
23 to the stand.

24 THE CLERK: Please raise your right hand.

25 *(The oath was administered)*

Deena Hauser Lancaster - Direct

1 DEENA HAUSER LANCASTER, DEFENDANT'S WITNESS, SWORN

2 DIRECT EXAMINATION

3 BY MS. ROTH:

4 Q. Good morning.

5 A. Good morning.

6 Q. Could you tell the Court and those present your name,
7 please.

8 A. Deena Ann Hauser Lancaster.

9 Q. Are you related to Mark Hauser?

10 A. He is my son.

11 Q. And who is in the courtroom with you today?

12 A. My mother, Sheila Christine Norgard, and my husband,
13 Gregory Coe Lancaster.

14 Q. Are you and your husband retired, working right now?

15 A. We're retired.

16 Q. And what are you both retired from?

17 A. Well, myself, I was an oil and gas accountant for
18 Halliburton for quite a while, and I went back to school and
19 became a teacher on a NASA grant. I got my master's in special
20 ed and special behaviors. And I've almost finished my Ph.D.

21 Q. Congratulations.

22 A. Thank you.

23 Q. And your husband, he is retired from?

24 A. Well, he retired from Bell Helicopter. He retired from the
25 government and -- he was the IT director for Harris County.

Deena Hauser Lancaster - Direct

1 And he retired from a little job he was working, Reese Group.
2 It was a grocery warehouse -- I'm not really sure -- retailer.
3 Yeah. And he, for over 30 years, was a music minister at
4 church.

5 Q. Did you talk to United States Pretrial Services about the
6 possibility of Mark Hauser moving from the house with his wife
7 and child to your home?

8 A. Yes, we did.

9 Q. And are you willing to have him reside at your home if he's
10 placed on bond?

11 A. Absolutely.

12 Q. Why?

13 A. Because he's my son.

14 Q. Do you think he's going to comply with bond?

15 A. Oh, I know he will.

16 Q. Were you aware that he was on bond when he was living with
17 Melissa and her son and their son?

18 A. Absolutely. He -- I took him to practically all his
19 appointments, medical appointments and all the other
20 appointments. And he had the ankle bracelet on, and he was
21 very, very cautious not to go beyond the edge of the door, the
22 front door or the back door. He was very concerned about his
23 boundaries.

24 He was always nervous about not -- if he was allowed to
25 leave for an appointment at 9:00 in the morning, he wanted to

Deena Hauser Lancaster - Direct

1 make sure he didn't walk out the door until a few minutes after
2 9:00. We were always rushing to get back. He was always
3 concerned about meeting the constraints.

4 And there were times that we had to call Officer Perez and
5 leave him messages, hey, remember, I've got an appointment
6 today, because he was often forgetting that he had
7 appointments.

8 So yeah, I feel that he will follow all the rules.

9 I'm sorry. I'm not used to talking like this.

10 Q. That's very understandable.

11 Do you agree with the government witness's statement that
12 your son was in compliance with his bond conditions?

13 A. That he was in compliance?

14 Q. Uh-huh.

15 A. Yes.

16 Q. Do you have any reason to believe that he would not
17 continue to be in compliance with bond if rereleased?

18 A. I have no doubt.

19 Q. In the pretrial services report it talks about some
20 firearms at your home and also the Wi-Fi at your home. Did you
21 talk to U.S. Pretrial Services about that, you and your
22 husband?

23 A. Officer Perez came to our home and was there for a while,
24 and then he called back, and we had a long conversation over
25 the phone. And yes, we spoke to him about that.

Deena Hauser Lancaster - Direct

1 With regard to the firearms, most of our firearms are
2 inherited. And they're so old, they probably are inoperable.
3 But we did tell him that we were willing to buy a high-end safe
4 and that we would also put it inside of a closet with a
5 deadbolt. And our handguns have locks on them already. So
6 that's -- he said that that would be sufficient.

7 And with regards to the Wi-Fi, we just have our laptops,
8 our Roku TV and our phones, that are like -- I don't know how
9 you consider it. I don't know the technology. But anyway,
10 other than that, we do all of our banking, all -- everything.
11 We usually have our groceries delivered. We do everything
12 online. Our electronics in the home, like the washer and dryer
13 and our Roomba and the bed I sleep in, because we both have
14 back surgeries, it has to use the Wi-Fi. I mean, there's just
15 so many things that have to use the Wi-Fi to operate the things
16 in our lives and to help us live our lives.

17 But we spent hours sitting in front of the Roku, going
18 through and putting parental locks on every single app that's
19 on the TV. And if we couldn't get it to work out with the
20 parental lockdown, whatever you call it, we disabled it. So --

21 Q. You mean -- you mean you did all this after talking to
22 United States Pretrial Services?

23 A. Yes, ma'am.

24 Q. Okay. And so you need Wi-Fi to operate your bed and your
25 home items, like the Roomba machine and things like that, and

Deena Hauser Lancaster - Direct

1 your washer and dryer, you've said?

2 A. And the Ring button and --

3 Q. The Ring button?

4 A. And I misunderstood what you said. You asked me if I -- if
5 we did that after we spoke to him. We did that after he called
6 us and made the appointment to come over, so we had it done
7 when he came to the house, so that we could show him that we
8 had it on lockdown.

9 Q. Okay. Thank you.

10 And you're willing to -- well, first of all, how many
11 devices that are -- that can potentially link to the
12 internet -- so, for instance, the Roomba can't link to the
13 internet. But how many devices do you have in your home that
14 can link to the internet, as far as being able to search the
15 internet?

16 A. Oh, just our phones and our laptops and the television.
17 And they're usually with us. Since we're retired and disabled,
18 we're kind of couch potatoes.

19 Q. Do you stay at home most of the day?

20 A. Yes, ma'am. The only time I leave is when I go to a doctor
21 or pick up Mark to take him to his appointments to go and
22 prepare for his heart surgery.

23 Q. Do you -- how many laptops and how many phones and how many
24 TVs do you have?

25 A. We have the Roku TV in the living room. We both have a

Deena Hauser Lancaster - Direct

1 iPhone, and we both have laptops. And then there's a really
2 old TV in the bedroom, but I am not sure -- no. It doesn't.
3 He's shaking his head no.

4 Q. Who?

5 A. My IT director. My husband.

6 Q. Your husband. So your husband's indicating to you right
7 now that, no, that cannot -- that other TV cannot connect to
8 the internet?

9 A. Correct.

10 Q. Okay. And I'll just caution you that you need to be
11 answering this and that -- it's okay. I --

12 A. I won't look at him.

13 Q. That's okay.

14 But your husband has at least 15 years of IT background,
15 correct?

16 A. Yes, ma'am.

17 Q. So he's able to understand the pretrial services'
18 instructions on restriction of access to internet?

19 A. Yes, ma'am. He had to take about 20 minutes to explain to
20 Officer Perez how they actually worked and what was going on
21 when we had to lock down, because Officer Perez said he doesn't
22 have any internet or anything like that at his home. So my
23 husband had to show him how it was working and how we knew that
24 it was locked down.

25 Q. Okay. And are you willing to password protect those five

Deena Hauser Lancaster - Direct

1 devices with internet connectivity and not share those
2 passwords with your son, Mark?

3 A. Yes, ma'am. We've already changed everything and put it to
4 where you can't even guess them. And they are double
5 blocked -- double password protected.

6 Q. Okay. If pretrial services also wanted to put software
7 monitoring devices on to make sure there wasn't any
8 unauthorized access to the internet, would you be willing to do
9 that?

10 A. I don't see why not.

11 Q. You talked about taking your son to the appointments with
12 pretrial but also to medical appointments.

13 A. Yes, ma'am.

14 Q. Tell us about what medical appointments you were taking him
15 to and why.

16 A. In 2014 Mark -- his mitral valve ruptured, and he had to
17 receive a porcine valve at that time. But the flesh around it
18 was so poor, that in March of 2015 it was coming unsewn. And
19 so he had to -- they had to go in, and he had another
20 open-heart surgery.

21 And he has a wire -- you know, they wire the sternum
22 together. And that wire is coming out. And right now it's
23 poking out, and it's been painful for him. So when he went to
24 the doctor for them to look at that, they found that he -- and
25 they did a lot of tests. He needs to have a new valve. And

Deena Hauser Lancaster - Direct

1 this time, they want to put a mechanical mitral valve in, since
2 he has trouble with the porcine. So -- and in order to do
3 that, he has to have a lot of dental surgery done because the
4 infection has gotten up in his gums and teeth.

5 Q. Is anything currently scheduled?

6 A. Yes, ma'am. He -- they scheduled and had to postpone his
7 actual surgery because the hospital couldn't get the drugs in
8 that they need to use for him. And then, it was either
9 Thursday or Friday, I had a call that they were ready for him
10 to come in for his preop again and to schedule him for the
11 surgery -- to come up -- they had wanted to do it next week.
12 And he has his dental clearance -- his second appointment for
13 that for next week.

14 Q. Okay. So if I understood you, did you mean that he missed
15 a preop because he was arrested?

16 A. Yes, ma'am.

17 Q. Is that rescheduled yet?

18 A. It's pending on what happens here today.

19 Q. Okay. And then the dental appointment, which is also part
20 of the preop process, is scheduled for next week?

21 A. It's for Tuesday, I believe.

22 Q. Your son has insurance? Medical insurance?

23 A. He does have dental insurance through Melissa's job, and I
24 was going to pay the copay.

25 Q. Is he also on Carelink?

Deena Hauser Lancaster - Cross

1 A. Yes, ma'am.

2 MS. ROTH: Pass the witness.

3 CROSS-EXAMINATION

4 BY MR. STEPHENSON:

5 Q. Good afternoon, Ms. Lancaster.

6 A. Good afternoon.

7 Q. Are you aware that your son is a felon?

8 A. Yes.

9 Q. Can you describe what he was convicted of?

10 A. "Convicted of"?

11 Q. Yeah. Why is he a felon?

12 A. Back -- I don't even know the year. But he was using
13 heroin.

14 Q. So it's related to drug possession?

15 A. Yes.

16 Q. Okay. Any other felony convictions or charges that you're
17 aware of?

18 A. I think all of it is related to the craziness that goes
19 through a person when they're on drugs.

20 Q. Are you aware of any forgery charges against him?

21 A. Forgery. Maybe we're using different terminology. No.
22 I'm not aware that that was something that he was convicted of,
23 no.

24 Q. Are you aware -- or when did you -- when did you become
25 aware that he was a felon? Approximate. Just give me a year.

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1 A. Give you a year?

2 Q. Yeah.

3 A. Sir, he's a -- he's a felon because he went to jail. I
4 don't know what you mean by -- okay. This has to do with the
5 current charges of today, why?

6 Q. Are you aware he was a felon before he was arrested for
7 the -- for the felon in possession charge?

8 A. Yes.

9 Q. Okay. Did you know that he had firearms?

10 A. Yes.

11 Q. When did you first know that he had firearms?

12 A. I guess 2021, I think.

13 Q. Not before then?

14 A. I don't remember.

15 Q. Were you aware that he had firearms before he was arrested
16 for felon in possession of a firearm?

17 A. Yes.

18 Q. Okay.

19 A. I just answered that, sir.

20 Q. Did you ever help him to acquire a firearm?

21 A. I purchased a part of a firearm that I thought was going to
22 be used for myself. And I see now that was poor judgment.

23 Q. Did you know what you were purchasing was a part of a
24 firearm?

25 A. Okay. It came from a firearm manufacture gun store online.

Deena Hauser Lancaster - Cross

1 It was shipped to a gun store. I went into a gun store to pick
2 it up. So I would say, cognitively speaking, yes, I was aware
3 that I was in a gun store picking up a part of a gun.

4 Q. And did he -- did he ask you to go pick it up for him?

5 A. Yes.

6 Q. Okay. And did you --

7 A. But I wasn't picking it up for him. I've already told you,
8 it was for something for me, that he was going to help me to
9 do.

10 Q. So you were going to pick it up and give it to him?

11 A. No. He was going to come to my house and put it together
12 for me.

13 Q. So he was going to take it from you?

14 A. He was not going to take it from me. He -- I have a living
15 room and a kitchen.

16 Q. Okay.

17 A. And we were going to sit there together and put it
18 together.

19 You're trying to misconstrue what I'm trying to tell you.

20 Q. I'm trying to understand how you were going to get this
21 firearm, this piece of a firearm --

22 A. Okay.

23 Q. -- and get it made into a firearm. Who was going to do
24 that for you?

25 A. Okay. I will try to tell you in a way that you might

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1 understand, like I'm talking to one of my students. It arrived
2 in my name. I went to the store, picked it up, took it home.
3 He came over, and he -- we were working with my guns to put it
4 together on my firearm.

5 Again, I ask you, why is this so important, that it has to
6 be broken down so primarily?

7 THE COURT: You know, actually --

8 MR. STEPHENSON: Your Honor --

9 THE COURT: -- he asks you the questions. You answer
10 the questions.

11 THE WITNESS: Okay.

12 MR. STEPHENSON: Your Honor, I'd like to make the
13 witness aware of her Fifth Amendment rights to not make
14 self-incriminating statements.

15 BY MR. STEPHENSON:

16 Q. Are you aware that you have Fifth Amendment rights to not
17 incriminate yourself?

18 A. Yes.

19 Q. Okay.

20 A. I wasn't aware I was. Thank you.

21 Q. Okay. Knowing those rights, I'm going to continue to
22 answer -- to ask you questions.

23 MS. ROTH: Your Honor, this is actually outside of
24 what the prosecutor is able to do. He cannot knowingly cause
25 someone to incriminate his or herself. If that's what his

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1 intent is and which is what he's just stated, then I ask that
2 you appoint counsel to represent this witness.

3 MR. STEPHENSON: Your Honor, part of the argument she
4 was making is that this would be an adequate and good
5 caregiver, somewhere that -- where he could stay.

6 THE COURT: Right. I think -- so I think we can -- we
7 can get to that. And I think that you already have made the
8 point that you were attempting to make, without causing her to
9 testify further on these facts that might require her to have
10 her own attorney.

11 MR. STEPHENSON: Okay. Thank you, Your Honor.

12 BY MR. STEPHENSON:

13 Q. Are you aware that your son had a cellphone?

14 A. Yes. My son had a cellphone.

15 Q. Were you aware that he had images on his phone?

16 A. No.

17 Q. Were you aware that he had child pornography on his phone?

18 A. No.

19 Q. Have you read the indictment charging him with child
20 pornography?

21 A. No.

22 Q. Okay. Would it surprise you that he had those images on
23 his phone?

24 A. Yes.

25 Q. Okay. Are you aware that child pornography images are

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1 often obtained online?

2 A. I assume so.

3 Q. And in your opinion, if someone has child pornography on
4 their phone, are they a good caregiver for children?

5 MS. ROTH: Your Honor, that is absolutely a harassing
6 question of this witness, and it's beyond any purpose or scope
7 of this hearing.

8 MR. STEPHENSON: We'll withdraw it.

9 THE COURT: Okay.

10 MR. STEPHENSON: Your Honor, I'll pass.

11 REDIRECT EXAMINATION

12 BY MS. ROTH:

13 Q. Both United States Pretrial Services and I and your son
14 told you what this indictment is; that it's -- that it's an
15 accusation that he possessed child pornography, correct?

16 A. Correct.

17 Q. On his phone, correct?

18 A. Correct.

19 Q. Are you willing to have every firearm or firearm-related
20 thing in your house locked inside of a safe, locked inside of a
21 closet with a deadbolt?

22 A. Yes, ma'am.

23 Q. Are you willing to do that within the next twelve hours, if
24 this Court sets your son on conditions of release?

25 A. Yes, ma'am.

Deena Hauser Lancaster - Redirect

1 Q. If the Court orders you to do that within the next two
2 hours, will you do it?

3 A. Yes, ma'am. We've already decided to -- we've already
4 located what we want and what we need. And we were going to
5 pick it up on the way home.

6 MR. STEPHENSON: Nothing further for this witness,
7 Your Honor.

8 THE COURT: You may step down.

9 Any other witnesses, Ms. Roth?

10 MS. ROTH: No, Your Honor.

11 THE COURT: All right. I'll hear argument. And I do
12 have the pretrial services report. I also have in front of me
13 the bond conditions that Judge Bemporad imposed in November of
14 2021. They are quite restrictive bond conditions. They
15 involve home detention. There was also requirement that the
16 defendant not possess any computers and that folks living in
17 his house consent to pretrial confirming that they have
18 everything protected. So those were -- and no posting on
19 social media. Those were all restrictions placed on him prior
20 to -- I don't think anything about child pornography was
21 introduced at the last detention hearing, I assume.

22 MR. STEPHENSON: That's correct, Your Honor.

23 THE COURT: So he was already on restricted behavior
24 related to other activity he was engaging in online and with
25 computers. And so I have all that information.

1 And given all of that, I'll hear argument on your position
2 on, you know, for you, Mr. Stephenson, whether or not these
3 conditions are sufficient under the Adam Walsh Act. Given the
4 charges, we have additional concerns that we have to address,
5 that the pretrial services report addresses -- so whether or
6 not there is anything, you know, additional. I don't know that
7 there is, given the options for where folks can live. And I'll
8 have Ms. Roth respond to that as well.

9 But we're not starting, as we usually do, from a blank
10 slate. We're starting from this slate. So I just want
11 argument to start from there.

12 MR. STEPHENSON: Thank you, Your Honor.

13 Your Honor, I don't believe that there are additional
14 conditions that can ensure the safety of the community. He has
15 restricted conditions placed upon him now. However, he's
16 charged with two very serious felonies, one involving use -- or
17 possession of a firearm, and it involves an affiliation with a
18 violent, dangerous group. The other charge is one of child
19 pornography, possessing child pornography.

20 I believe that, given those -- both the violence and the
21 inherent danger to children, of somebody who possesses child
22 pornography -- obviously, there are child victims related to
23 the offense of possession of child pornography -- that the
24 danger to the community is just too great and that no further
25 conditions will allow that.

1 I don't believe that the conditions of -- requesting that
2 his parents secure the firearms are sufficient. I believe
3 we've elicited evidence that his mother, at the time that she
4 knew he was a felon, helped him to possess and obtain materials
5 for a firearm. I don't believe, in that scenario, that that
6 same person, who helped him previously to possess a firearm,
7 knowing that he was a felon, could also be trusted to restrict
8 his access to additional firearms, which they admit are in the
9 house, or to prevent him from accessing the internet. I don't
10 think that we can trust her assurances, given the past.

11 I would submit, also, that the dangers are sufficiently
12 high, that they outweigh any of these restrictions, given that
13 we know his -- we can't send him back to the house where he was
14 at. The pretrial services report substantiates that he
15 shouldn't be in a house with children. Even as -- even though
16 we know that these images were not of those children, it's just
17 too great a risk to put somebody who has child pornography on
18 their phone in a place where they supervise children.

19 Putting him in the house with his parents, particularly
20 with his mother, who we know has previously helped him to
21 obtain firearms even when she knew that he was not authorized
22 to do so, I don't believe we can, therefore, trust her to keep
23 him away from firearms and to keep him offline and abide by his
24 bond conditions.

25 THE COURT: Okay. Ms. Roth.

1 MS. ROTH: Thank you, Your Honor. Starting from what
2 we know is this fact, that Mr. Hauser did not violate any bond
3 conditions whatsoever. This arrest even -- including even this
4 arrest, because the phone was seized --

5 THE COURT: No. I understand. The phone was seized
6 at the time of the original arrest, and the images were
7 discovered later. I mean, he has not violated, that we know
8 of, any of the previously-imposed conditions. He has been out
9 a few months. Those are good facts in your favor.

10 Now we're here in a different posture, though. We already
11 had troubling behavior online, that led to the other judge
12 imposing some of the more restrictive conditions I've seen
13 imposed in a non-child porn case, for computer usage. And so
14 the discovery that he also was in possession of child sex abuse
15 material is, you know, a different and troubling discovery, one
16 that triggers a new set of things that pretrial usually
17 recommends that we need to do, including not having a house
18 with kids and including having him very protected from access
19 to the internet.

20 His parents have internet in their house, for
21 understandable reasons. All the reasons offered for wanting to
22 have internet completely make sense. But we have a very
23 technologically-sophisticated defendant and father. And, you
24 know -- and pretrial can only do so much to ensure that there
25 isn't access in that environment.

1 So how should I respond to that?

2 MS. ROTH: Well, there's no -- I see no record or
3 heard no record of internet sophistication on Mark Hauser's
4 part. But the --

5 THE COURT: I thought the report said he was an eight
6 out of ten. Is that what the pretrial report said?
7 Technology --

8 MS. ROTH: What is an eight out of ten? I'm sorry.

9 THE COURT: In technological knowhow. I may have --
10 yes. Defendant's estimated to have the technological knowledge
11 rated eight out of ten, on the first page of the pretrial
12 report.

13 MS. ROTH: I'm sorry. I don't know what that means or
14 even -- I can't -- on the first page?

15 THE COURT: It's in the bold, under the introduction
16 section, the last sentence.

17 MS. ROTH: Agent Granberry?

18 THE COURT: Yes.

19 MS. ROTH: I don't know what that means. So I'm
20 sorry. I don't know how to address that.

21 But I do know that the IT background of Mr. Hauser's
22 stepfather would be an asset to pretrial, especially if he was
23 named as a custodian, because he can assist in making sure that
24 there's no internet accessibility.

25 I don't know of a case where a court has ordered that no

1 Wi-Fi is allowed in the house -- in any house. But there are
2 certainly ways to restrict and control internet access. And
3 the parents have already done that by double pass protecting
4 their five devices and making sure that Mr. Hauser doesn't know
5 what those double passwords are.

6 He can't -- Mr. Hauser could not -- no matter how
7 sophisticated an individual is technologically, they can't
8 access the internet through a Roomba vacuum machine. So the
9 five devices are their two personal laptops, their two personal
10 phones and a Roku smart TV -- one Roku smart TV.

11 The mother testified that they went through the Roku device
12 and, on every single one, put parental controls. And if they
13 weren't able to put parental controls, then they would disable
14 the app.

15 She also testified that she'd be willing to have software
16 monitoring put on their electronic devices.

17 Moving to a new house where pretrial already confirmed
18 there are no child devices or toys and where the information
19 from the family is that children don't frequent that house,
20 takes care of any concern you might have regarding that
21 residence. Pretrial already confirmed that the residence is
22 not in proximity of child safety zone areas. They confirmed
23 that with the aerial Google search.

24 And the parents have already selected a safe. I don't
25 think we can fault them for not purchasing a safe yet, when

1 they don't know if their son's going to be released on bond or
2 not. I don't think that can be faulted since those are several
3 thousand dollars, at minimum. But they are willing to purchase
4 a safe upon leaving this room, put it inside a closet and put a
5 deadbolt on that closet door.

6 I did not discuss with them the possibility of putting it
7 in a safe and taking it to a friend's house or a cousin's
8 house. I don't know if they'd be willing to do that or not
9 just simply because I didn't ask. But that is some -- that is
10 another measure that could be taken. I don't know that that
11 offers any additional safety.

12 But Mr. Hauser is already, as you noted, on extremely
13 restrictive conditions. Often, when people are on those
14 restrictive conditions, they're unable to comply. That wasn't
15 him. He complied with everything. And he reported his medical
16 needs in advance, and he would need to keep doing that.

17 So the surgery would require hospitalization, of course.
18 So he wouldn't be at home at all during that time period.

19 But his best statement to you is the way that he complied
20 with the restrictive conditions that Judge Bemporad set and
21 imposed on him. And none of this conduct happened, of course,
22 during that time.

23 The government did know, as soon as they looked at that
24 phone, what was on there. But because of their processes, it
25 takes them longer to be able to come back with a charge. And I

1 understand that.

2 THE COURT: I don't know that there's anything in the
3 record that they knew that there was child pornography on the
4 phone at the time of the previous hearings.

5 MS. ROTH: Well, that's true. It's probably not on
6 the record because it was just something that the government
7 counsel and I talked about but --

8 MR. STEPHENSON: Your Honor, that's not correct.
9 There is -- the government was not aware that there was child
10 porn at the time we had the prior bond hearing or at the time
11 that we indicted him for felon in possession.

12 THE COURT: And I am confident that child pornography
13 was not presented to Judge Bemporad as something to consider in
14 crafting conditions --

15 MR. STEPHENSON: Your Honor, the government didn't
16 know about it. We couldn't present it.

17 MS. ROTH: The government knew about it for several
18 months, at minimum. And I hope that the U.S. Attorney confirms
19 that with you. So maybe I misunderstood him since I wasn't,
20 you know --

21 MR. STEPHENSON: Your Honor, I'm happy to address
22 that. The government has been aware that there was -- that
23 there were images suggesting child pornography on his phone.
24 It takes the government several months, unfortunately, to
25 diagnose those images, confirm that they are child pornography

1 and then get that in front of a grand jury.

2 MS. ROTH: And I'm not criticizing at this juncture
3 the fact that it takes those months. What I'm trying to point
4 out is that, all during this time, Mr. Hauser has not engaged
5 in any of that conduct and has been successfully abiding by all
6 of the restrictive bond conditions. So what -- so it's not new
7 conduct.

8 So what can be further done? Moving him to a house where
9 there's no interaction with children, which he's willing and
10 his parents are willing to do, and further lock down his
11 internet accessibility. It was already virtually locked down,
12 I'm understanding, from the prior conditions. But this
13 requires even more. And his family -- he and his family are
14 all willing to abide by that.

15 MR. STEPHENSON: Your Honor, may I offer just a very
16 brief rebuttal?

17 THE COURT: Yeah. Go ahead.

18 MR. STEPHENSON: Your Honor, the primary issue is that
19 I do not believe he can be trusted at his -- at the new
20 accommodations that defense counsel is advocating for. I don't
21 believe that we can trust his mother or his family to add the
22 extra protections that are being described, given what we know
23 about his mother's past, with providing him with parts of a
24 firearm to create a firearm for her.

25 MS. ROTH: I guess I don't understand that. Because

1 the testimony was -- maybe the government doesn't like that a
2 witness stands up to their questioning. You know, that's
3 possible, since they rarely get that. But she testified
4 trustfully. She answered his questions. And the answer was
5 that she knew he had a felony in 2021. Well, that's the same
6 time that he was charged.

7 And the -- she also knew that the felony that he had, which
8 is the only felony, was the possession of heroin, which was
9 many years ago.

10 Texas law and federal law are different on when a person
11 can touch a part of a firearm. The government did badger the
12 witness, and that's understandable from their point of view.
13 However, there's no indication that she knew he couldn't help
14 her build a firearm.

15 THE COURT: Okay. Mr. Hauser, you've been through
16 this before. So you know what the rules are and how they work.
17 But there are two main things that I consider in deciding
18 whether or not to give you a bond. One is your risk of -- that
19 you won't appear for court, and the other is the risk of
20 whether you pose a danger.

21 And no one's arguing that you're posing a risk of
22 nonappearance in this case. And, really, this is all coming
23 down to dangerousness.

24 I did look at the docket in the other case and saw that
25 Judge Bemporad originally did order you detained and find that

1 you were -- and on dangerousness grounds.

2 After a rehearing, that we don't have the transcript of,
3 but, again, before any information about child pornography was
4 at issue, he imposed some very stringent conditions. As far as
5 I am aware, you've been compliant with those conditions.

6 But the new information means we have to consider new
7 risks. We are already in a situation where we're considering
8 very high risks. Those types of conditions are not imposed
9 very often.

10 The proffered solution is to have you go live with your
11 parents instead of at your home with your child and wife,
12 understandably. But, you know, the two attorneys have
13 different interpretations of the testimony that I -- that we
14 just listened to.

15 What I heard and understood was someone who was willing to
16 do an awful lot for her son, some of it what the Court would
17 ask and some of it not. And I'm not comfortable, based on the
18 testimony and, frankly, the contemptuous tone that was taken,
19 including with me, that she would be an appropriate custodian
20 to help enforce the Court's rules and restrictions if she was
21 not in agreement with them.

22 For that reason -- that's one of the hardest jobs of being
23 a custodian. This isn't -- that's not a condition that's going
24 to ameliorate the dangerousness concerns that we have in this
25 case. And I order you detained.

1 * * *

2 (12:12 p.m.)

6 -oOo-

7 I, court approved transcriber, certify that the foregoing
8 is a correct transcript from the electronic sound recording of
9 the proceedings in the above-entitled matter.

10
11 Date: 6/22/2022 /s/ Chris Poage
12 Approved Transcriber